



# House of Representatives

**File No. 859**

General Assembly

January Session, 2001

**(Reprint of File Nos. 84 and 658)**

Substitute House Bill No. 6615  
As Amended by Senate Amendment  
Schedule "A" and House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
June 2, 2001

**AN ACT CONCERNING CONSUMER PROTECTIONS FOR HOME  
IMPROVEMENT CONTRACTOR FINANCED PROGRAMS, HOME  
INSPECTORS AND HOME IMPROVEMENT CONTRACTORS AND  
SALESPERSONS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Subsection (e) of section 20-429 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (e) Each home improvement contract entered into shall be  
4 considered a home solicitation sale pursuant to chapter 740 and shall  
5 be subject to the requirements of said chapter regardless of the location  
6 of the transaction or of the signing of the contract. Each home  
7 improvement contract in which the owner agrees to repay the  
8 contractor an amount loaned or advanced to the owner by the  
9 contractor for the purposes of paying for the goods and services  
10 provided in such contract, or which contains a finance charge, (1) shall  
11 set forth the information required to be disclosed pursuant to the  
12 Truth-in-Lending Act, sections 36a-675 to 36a-685, inclusive, (2) shall

13 allow the owner to pay off in advance the full amount due and obtain  
14 a partial refund of any unearned finance charge, and (3) may contain a  
15 finance charge set at a rate of not more than the rate allowed for loans  
16 pursuant to section 37-4. As used in this subsection, "finance charge"  
17 means the amount in excess of the cash price for goods and services  
18 under the home improvement contract to be paid by the owner for the  
19 privilege of paying the contract price in installments over a period of  
20 time.

21 Sec. 2. Subsection (a) of section 52-572k of the general statutes is  
22 repealed and the following is substituted in lieu thereof:

23 (a) Any covenant, promise, agreement or understanding entered  
24 into in connection with or collateral to a contract or agreement relative  
25 to the construction, alteration, repair or maintenance of any building,  
26 structure or appurtenances thereto including moving, demolition and  
27 excavating connected therewith, that purports to indemnify or hold  
28 harmless the promisee against liability for damage arising out of  
29 bodily injury to persons or damage to property caused by or resulting  
30 from the [sole] negligence of such promisee, [his] such promisee's  
31 agents or employees, is against public policy and void, provided this  
32 section shall not affect the validity of any insurance contract, workers'  
33 compensation agreement or other agreement issued by a licensed  
34 insurer.

35 Sec. 3. Section 20-426 of the general statutes is repealed and the  
36 following is substituted in lieu thereof:

37 (a) The commissioner may revoke, suspend or refuse to issue or  
38 renew any certificate of registration as a home improvement contractor  
39 or [salesman] salesperson or place a registrant on probation or issue a  
40 letter of reprimand for: (1) Conduct of a character likely to mislead,  
41 deceive or defraud the public or the commissioner; (2) engaging in any  
42 untruthful or misleading advertising; (3) failing to reimburse the  
43 guaranty fund established pursuant to section 20-432 for any moneys  
44 paid to an owner pursuant to subsection (o) of section 20-432; (4)

45 unfair or deceptive business practices; or (5) violation of any of the  
46 provisions of the general statutes relating to home improvements or  
47 any regulation adopted pursuant to any of such provisions. The  
48 commissioner may refuse to issue or renew any certificate of  
49 registration as a home improvement contractor or salesperson of any  
50 person subject to the registration requirements of chapter 969.

51 (b) The commissioner shall not revoke or suspend any certificate of  
52 registration or require the posting of a bond except upon notice and  
53 hearing in accordance with chapter 54.

54 Sec. 4. Section 20-494 of the general statutes is repealed and the  
55 following is substituted in lieu thereof:

56 (a) The board may, by majority vote of the entire board and upon a  
57 finding of any cause specified in subsection (c) of section 21a-9:

58 (1) Revoke, suspend or refuse to issue a home inspector license or  
59 home inspector intern permit;

60 (2) Issue a letter of reprimand to a home inspector and send a copy  
61 of such letter to a complainant or to a state or local official;

62 (3) Place a home inspector on probationary status and require the  
63 home inspector to report regularly to the board on the matter that is  
64 the basis for probation;

65 (4) Limit the home inspector's practice to areas prescribed by the  
66 board; or

67 (5) Order a home inspector to continue or renew the home  
68 inspector's education until the home inspector has attained a  
69 satisfactory level of competence in any area that is the basis for  
70 probation.

71 (b) By majority vote of the entire board and upon a finding that a  
72 person applying for or renewing a home inspector license or home  
73 inspector intern permit is subject to the registration requirements of

74 chapter 969, the board may refuse to issue or renew the home inspector  
75 license or home inspector intern permit.

76 [(b)] (c) The board may discontinue, suspend or rescind any action  
77 taken under [subsection] subsections (a) or (b) of this section.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

**State Impact:** Potential Revenue Gain, Potential Minimal Cost, Potential Minimal Revenue Loss

**Affected Agencies:** Department of Consumer Protection

**Municipal Impact:** None

### **Explanation**

#### **State Impact:**

The bill as amended requires home improvement contracts in which a contractor advances or loans money to a homeowner to comply with the Truth-in-Lending Act; allow a homeowner to pay off the full amount due in advance; and set a maximum finance rate of 12% per year. Under the Truth-in-Lending Act, violators may be subject to a penalty up to \$5,000 and imprisoned up to one year. Additionally, anyone who violates the maximum finance rate of 12% per year is subject to a maximum fine of \$1,000 and imprisoned up to six months. A revenue gain may result from these fines, the extent of which cannot be determined as it is contingent on the number of violations that occur and the amount of the penalties that are imposed. It is anticipated that the various criminal justice agencies may experience a workload increase and could incur minimal costs resulting from passage of this act. Any resulting costs can be handled within the normal budgetary resources of the affected agencies.

The bill as amended permits the commissioner of the Department of Consumer Protection (DCP) to revoke, suspend or refuse to issue or

renew a certificate of registration as a home improvement contractor or salesperson of any person subject to register as a sex offender pursuant to CGS chapter 969. It is anticipated that the department will be able to determine how many of the 18,000 registered home improvement contractors and 300 registered home improvement salespeople are registered sex offenders, within normal budgetary resources. To the extent registered home improvement contractors and salespeople are required to register as sex offenders, and the commissioner chooses to revoke or not renew such registrations, a minimal revenue loss may result.

The bill as amended permits the Home Inspection Licensing Board to vote to revoke, suspend or refuse to issue or renew a home inspector license or home inspection intern permit if the license holder is subject to the sexual offender licensure requirements of CGS chapter 969. It is anticipated that the board will be able to determine how many of the home inspectors and home inspection interns are required to register as sexual offenders, within the normal budgetary resources of the board as provided by the Department of Consumer Protection. To the extent licensed home inspectors and home inspector interns are required to register as sex offenders, and the board chooses to revoke or not renew such registrations, a minimal revenue loss may result.

Senate "A" makes changes which result in no fiscal impact.

House "A" adds provisions which permit the revocation, suspension or refusal to issue or renew a license for a home improvement contractor, home improvement salesperson, home inspector or home inspector intern permit. The fiscal impact is discussed above.

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**OLR Amended Bill Analysis**

sHB 6615 (as amended by Senate "A" and House "A")\*

***AN ACT ESTABLISHING CONSUMER PROTECTIONS FOR HOME IMPROVEMENT CONTRACTOR FINANCED PROGRAMS.*****SUMMARY:**

This bill authorizes the consumer protection commissioner to refuse to issue or renew the registration as a home improvement contractor or salesman of anyone required by law to register as a sexual offender. Similarly, it authorizes the Home Inspection Licensing Board to refuse to issue or renew a home inspector license or a home inspector intern permit to anyone required to register as a sexual offender.

The bill also requires home improvement contracts in which a contractor advances or loans money to a homeowner or which contain a finance charge, to (1) comply with the Truth-in-Lending Act, (2) allow the homeowner to pay off the full amount due in advance and obtain a partial refund of any unearned finance charge, and (3) set a maximum finance charge of 12% per year. It defines "finance charge" as the amount the homeowner pays for the ability to pay the contract price in installments, not including the cash price of the goods and services received.

The bill also declares any agreement relating to a construction contract void and against public policy if it relieves a person from liability arising out of bodily injury or damage to property caused by, or resulting from, his negligence or that of his employees or agents. Under current law, such agreements are void and against public policy only if the negligence of the person or his employees or agents is the sole cause of the injury or damage. Workers' compensation and other insurance contracts are exempt under the bill, as under current law.

\*Senate Amendment "A" adds the indemnification agreement provision.

\*House Amendment "A" adds the registered sex offender provisions.

EFFECTIVE DATE: October 1, 2001

### ***Denial of Home Improvement Contractor Registration***

An individual denied a certificate of registration because he is required to register as a sexual offender is, by law, entitled to a hearing before the commissioner. If the commissioner sustains his denial after a hearing, the applicant must wait one year to reapply. The applicant may appeal an adverse decision to Superior Court.

### ***Denial of Home Inspector Licenses and Home Inspector Intern Permits***

Under the bill, the Home Inspection Licensing Board may refuse to issue or renew a home inspector license or home inspector intern permit if a majority of the entire board votes to do so, and upon a finding that the applicant is subject to the sex offender registration requirements. By law, the board may discontinue, suspend, or rescind any disciplinary action it takes. The bill extends this provision to decisions on registered sex offenders. The law allows the board to hold hearings on disciplinary matters, and it allows people aggrieved by the board's decisions to appeal to Superior Court.

## **BACKGROUND**

### ***Employment and Criminal Records***

By law, an individual cannot be disqualified from engaging in any occupation or trade requiring a license, permit, certificate, or registration solely because he was convicted of a crime. However, the state may deny a license, permit, certificate, or registration in such a case if, after considering (1) the nature of the crime and its relationship to the job, (2) the degree of rehabilitation of the applicant, and (3) the time elapsed since conviction or release, it determines the applicant is not suitable for the specific occupation or trade. If the state rejects an applicant on the basis of a conviction, it must state the evidence presented and reasons for the rejection in writing, and send it to the applicant by registered mail.

### ***Sex Offender Registration Law***

People convicted or found not guilty by reason of mental disease or



defect of specific sex-related criminal offenses or other crimes committed for sexual purposes must register when they are released from custody. The registration lasts for 10 years for some offenses and for life for others. The sex offender registry is maintained by the Department of Public Safety (DPS). Registrants must report changes of address to DPS.

### ***Truth-in-Lending Act***

The act promotes informed borrowing by requiring lenders to fully disclose the terms of credit being extended. Disclosure is meant to (1) protect consumers from becoming unknowingly obligated to pay hidden and unreasonable charges and (2) permit them to compare meaningfully terms of credit extended by different lenders.

### ***Interest Rate Cap***

Current law sets a maximum annual interest rate of 12% on most loans. The cap does not apply to certain loans, including mortgages of real property for more than \$5,000.

### ***Home Improvement Contracts***

The law already requires that home improvement contracts (1) be in writing, (2) be signed by the owner and contractor, (3) contain the entire agreement, (4) include the date of the transaction, (5) contain the contractor's name and address, (6) contain a notice of the owner's cancellation rights, (7) include starting and completion dates, and (8) be entered into by a registered salesman or contractor.

Home improvement contracts are also subject to the Home Solicitation Sales Act, which gives buyers the right to cancel a contract within three days of signing an agreement.

### ***Legislative History***

The House referred the original bill (File 84) to the Judiciary Committee on April 19. The committee reported it favorably on April 25, after removing language requiring home improvement contractor-financed programs to comply with the Retail Installment Sales Financing Act. It was unclear what portions of the act would have applied.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Report  
Yea 17 Nay 0

Judiciary Committee

Joint Favorable Substitute  
Yea 38 Nay 0